



VIRGINIA REAL ESTATE APPRAISER BOARD NEWSLETTER

THE VIRGINIA APPRAISER

NOVEMBER 2000 VOLUME 13

DEPARTMENT OF PROFESSIONAL & OCCUPATIONAL REGULATION

Newsletter On-Line

The Department of Professional and Occupational Regulation has made great strides in providing information to licensees and the public on its website (<http://www.state.va.us/dpor>). A regulant look-up feature was recently added to the site and within the next several months, disciplinary records will be available. Therefore, in order to provide you with information in a more timely manner and reduce costs, future editions of *The Virginia Appraiser* will be available on the website only. Paper copies will no longer be mailed. Please make it a habit to check the website periodically.

Review Appraisals

The 2000 edition of USPAP states that it is a binding requirement for review appraisers to identify the appraiser(s) that completed the review. Many clients delete the appraiser's name when they provide the report to the review appraiser. This has created some confusion regarding the requirement which has been addressed by the Appraisal Standards Board as follows:

Q Standard 3-1(b)(v) in the 2000 USPAP states that it is a binding requirement for review appraisers to identify the appraiser(s) that completed the work under review. However, one of my clients that orders review appraisals from my firm always deletes any reference to the individual's name or company that completed the original assignment. They believe that removing the appraiser and company prevents personal bias from infiltrating the process. In light of this binding requirement, can I continue to take these assignments?

A Yes, you can continue to take these assignments.

The requirement stated in Standards Rule 3-1(b)(v) was to ensure individual identity of an appraisal. That

requirement helps ensure the work under review actually is work by an appraiser, and aids in tracking the source in such activities as enforcement and qualifications testing. This requirement is also useful in situations where a reviewer is reviewing two or more appraisals of the same property completed with a matching date of appraisal, such as in public agency work and many relocation related assignments.

The problem that arises in situations where the appraiser's identity is withheld did not surface during the public exposure process, but came to light after publication of the 2000 Edition of USPAP. A Revision to Standards Rule 3-1(b)(v) and the addition of a Comment following Standards Rule 3-2(b) will be needed to resolve the problem. The proposed revision was submitted for public comment in May 2000, and will ultimately appear in the 2001 Edition.

To deal with the requirements in the 2000 Edition of USPAP, when the appraiser's identity is not available, a reviewer can signify compliance with both Standards Rule 3-1(b)(v) and the related reporting requirement in Standards Rule 3-2(b) by stating the factual circumstances in the appraisal review report (i.e., the appraiser's identity is not available to the reviewer). This proposed solution is consistent with the requirement, stated in Standards Rules 2-2(a),(b), and (c)(ix), as to how an appraiser is expected to address the requirements in Standards Rule 1-5 when data or information is not available.

USPAP - The Board sends a copy of USPAP to licensees every year during the month they renew. USPAP is available on the Appraisal Foundation's website at www.appraisalfoundation.org/.

Registry - The Federal Registry is on-line at www.asc.gov.

Disciplinary Case Review

The Board is looking for qualified individuals to assist in the disciplinary review process. A Qualified Vendors List will be established of those licensees interested in providing such services. If you wish to participate in this process, you may obtain a Prequalification document by contacting Nancy Blantz at 804-367-8520.

Continuing Education

The Board office receives many inquiries regarding credit awarded toward Real Estate Appraiser continuing education for completion of Real Estate continuing education. The Real Estate Board requires eight hours of continuing education credit, including a minimum of four hours in Fair Housing laws, state real estate laws and regulations, and ethics and standards of conduct. The Appraiser Board had a policy of accepting six of the total eight hours as appraiser continuing education credit. The Board reviewed its policy at its meeting on October 17, 2000 and voted to accept the full eight hours. The new policy applies immediately. Eight hours will be awarded for the current licensing term and all future licensing terms. If you have been awarded six hours for the current term please call the Board office at 804-367-2039 and eight hours will be credited.

Investigative Updates



From November 1999 through September of 2000, the Board has closed four cases with a violation.

99-00055 - \$500 fines, \$300 costs for violations of §§ 4.3.3 (development of appraisal, 11 counts); 4.3.4 (reporting of appraisal, 6 counts); and 4.3.9 (competency) of the 1995 regulations; and corresponding USPAP violations.

99-02207 - \$300 costs and completion of a 15 hour course in condemnation appraising for violations of §§ 4.3.3 (development of appraisal, 4 counts) and 4.3.4 (reporting of appraisal, 3 counts) of the 1995 regulations; and corresponding USPAP violations.

98-01862 - \$900 fines, \$300 costs, completion of a 15 hours USPAP course and a one year inoperative suspension for violations of §§ 4.3.3 (development of appraisal, 10 counts) and 4.3.4 (reporting of appraisal, 13 counts) of the 1995 regulations; and corresponding USPAP violations.

99-01621 - \$600 fines for violations of 18 VAC 130-20-180.E (reporting of appraisal) and 18 VAC 130-20-180.K.1 (unworthiness) and corresponding USPAP violations.

? ? Questions and Answers ? ?

These questions and answers have been copied from ASB publications. The responses are based on presumed conditions without investigations or verification of actual circumstances. There is no assurance that the responses represent the only possible solution to the problems discussed or apply equally to seemingly similar situations. For further information, contact the ASB at 202-347-7722.

Q I heard that the ASB is revising the SUPPLEMENTAL STANDARDS RULE of USPAP in such a way as to make it a violation of the ETHICS RULE if I do not comply with every condition in an assignment that I accept. How can this be? I can't control every possible factor in performing an appraisal. Please explain why the revision was necessary, and exactly what it means?

A The ASB adopted a revision to the SUPPLEMENTAL STANDARDS RULE On July 10, 2000, to become effective January 1, 2001. The revision was necessary to ensure appraisers recognize their USPAP-related obligations when accepting an assignment that includes Supplemental Standards. These obligations were implicit, but not explicit, in the Rule in the 2000 edition of USPAP, and that lack of clarity was causing confusion and disparate interpretations of the Rule.

It is essential for readers of USPAP to recognize that the ASB's revision to the SUPPLEMENTAL STANDARDS RULE in USPAP does not make every requirement in an assignment a Supplemental Standard. Further, even when a requirement that is a Supplemental Standard is not met, that failure to comply is not necessarily a violation of the ETHICS RULE.

If an appraiser accepts an assignment involving Supplemental Standards that the appraiser knows he or she cannot meet, that action is a violation of the ETHICS RULE because the appraiser misrepresented his or her ability. If, instead, an appraiser fails to meet a Supplemental Standard due to an inadvertent error, such action may be a violation of, for example a real property appraisal, Standards Rule 1-1(b), but it is not a violation of the ETHICS RULE.

Further, appraisers should use care not to extend the SUPPLEMENTAL STANDARDS RULE beyond its

intended subject matter. Readers of the Rule should note that:

1. Public agencies or client groups must first issue the requirements that might become Supplemental Standards in the context of USPAP. Requirements imposed by a client do not rise to the level of Supplemental Standards without first having those two characteristics – *issued* (as in “published”) by a “*public agency*” or a *client group*.

As examples, without limitation; appraisal, appraisal review, or appraisal consulting requirements issued by the federal financial institution’s regulatory agencies (Federal Deposit Insurance Corporation, Federal Reserve Board, Office of the Comptroller of the Currency, Office of Thrift Supervision, National Credit Union Administration), secondary mortgage market entities (e.g. Fannie Mae, Freddie Mac, etc.), members of the Employee Relocation Council (ERC), the Department of Housing and Urban Development/Federal Housing Administration (HUD/FHA), or agencies subject to the Uniform Relocation Assistance and Real Property acquisition Policies Act of 1970, as amended, where the published requirements are common to all similar assignments for that agency or client group.

Further, professional appraisal organizations issue requirements for appraisal practice by their members that add to the requirements in USPAP, and can be Supplemental Standards in the context of USPAP because those requirements are publicized and apply uniformly to the work of those practitioners.

2. In order for a client’s requirements to become a Supplemental Standard in an assignment, the requirement must add to the requirements set forth in USPAP, and must not diminish the purpose, intent, or content of USPAP. The requirements applicable in an *assignment* as that term is used in USPAP, relate to the development and communication of an *appraisal*, *appraisal review*, or *appraisal consulting assignment*. Standards of Rules 1-1, 4-1, 6-1, 7-1 and 9-1(b) and (c), and the Comment to STANDARD 3, establish standards of due diligence and care, with the intent of ensuring any error of omission or commission, or as a result of carelessness, does not significantly affect the result of an appraisal, appraisal review, or appraisal consulting assignment.

A client’s requirements that extend beyond this purpose, intent, and content framework, such as the number of copies of a report, the kind of exhibits, or the time frame for assignment completion, might be

legitimate service contract requirements, but *are not Supplemental Standards* applicable to an appraisal, appraisal review, or appraisal consulting assignment in the context of the SUPPLEMENTAL STANDARDS RULE.

However, it is important for appraisers to note that a client’s assignment contract-related requirements might become an ETHICS RULE issue if an appraiser misrepresents his or her capacity to provide the service, as is the case when an appraiser advertises for or solicits an assignment in a manner that is false, misleading, or exaggerated (see the Management section of the ETHICS RULE).

Q A client has included a requirement in an assignment for me to not complete an analysis step that USPAP requires in that assignment. The client told me his requirement is a Supplemental Standard that takes the place of USPAP. Is this correct?

A No, it is not correct, for two reasons.

First, a client’s requirements cannot diminish the purpose, intent, or content of USPAP. Your client’s requirement would diminish the content of USPAP applicable in the assignment.

Second, the SUPPLEMENTAL STANDARDS RULE applies only to requirements issued by public agencies and certain client groups – e.g., regulatory agencies, eminent domain authorities, asset managers and financial institutions, and professional appraisal organizations. These requirements are, in at least some sense, published and apply in the same way to all similar assignments.

The particular requirements of a specific client, such as the number of copies of a report they require, the number and kind of photographs or exhibits, the time frame for delivery of the report, etc., might be a matter to address in your decision to engage in an assignment, but those are not what the SUPPLEMENTAL STANDARDS RULE in USPAP in addressing.

The client in this situation appears to be confused about the intent of the SUPPLEMENTAL STANDARDS RULE and the JURISDICTIONAL EXCEPTION RULE. Supplemental Standards add to the appraisal, appraisal review, or appraisal consulting assignment requirements in USPAP, while applying a Jurisdictional Exception removes a requirement in USPAP that is contrary to law or public policy of a specific jurisdiction. Except when the client in an assignment is a legal authority (e.g., a court of law or a public agency), clients are not jurisdiction.